

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

AMORY INVESTMENTS LLC,

Plaintiff,

v.

CARGILL, INC., ET AL.,

Defendants.

Case No. 22-cv-01506-JRT-JFD

ASSOCIATED GROCERS, INC., ET AL.,

Plaintiffs,

v.

CARGILL, INC., ET AL.,

Defendants.

Case No. 22-cv-01561-JRT-JFD

CHENEY BROTHERS, INC.,

Plaintiff,

v.

CARGILL, INC., ET AL.,

Defendants.

Case No. 22-cv-01505-JRT-JFD

GIANT EAGLE, INC.,

Plaintiff,

v.

CARGILL, INC., ET AL.,

Defendants.

Case No. 22-cv-01724-JRT-JFD

**SUBWAY PROTEIN LITIGATION CORP.,
AS LITIGATION TRUSTEE OF THE
SUBWAY PROTEIN LITIGATION
TRUST,**

Plaintiff,

v.

CARGILL, INC., ET AL.,

Defendants.

Case No. 22-cv-01504-JRT-JFD

SYSCO CORPORATION,

Plaintiff,

v.

CARGILL, INC., ET AL.,

Defendants.

Case No. 22-cv-01750-JRT-JFD

STIPULATION FOR EXTENSION OF TIME
TO FILE ANSWERS

Defendants Cargill Meat Solutions Corporation; Cargill, Inc.; JBS Packerland, Inc.;
JBS S.A.; JBS USA Food Company; National Beef Packing Company, LLC; Swift Beef

Company; Tyson Foods, Inc.; and Tyson Fresh Meats, Inc. (collectively “Defendants”) and Plaintiffs Amory Investments LLC; Associated Grocers, Inc., *et al.*¹; Cheney Brothers, Inc.; Giant Eagle, Inc.; Subway Protein Litigation Corp., as Litigation Trustee of the Subway Protein Litigation Trust (“Subway Protein Litigation Corp.”); and Sysco Corporation (collectively “Plaintiffs,” and, together with Defendants, the “Parties”), by and through the undersigned counsel, hereby respectfully submit this Stipulation for an extension of Defendants’ time to file answers in response to Plaintiffs’ Complaints. Having met and conferred, the Parties agree that Defendants should be allowed additional time, up to and including September 1, 2022, to file answers in response to the Complaints. The Parties submit that this deadline should be extended for good cause, in the interests of judicial efficiency and conservation of judicial resources. The Parties stipulate as follows:

1. Plaintiff Cheney Brothers, Inc. filed its suit in the United States District Court for the Southern District of Florida (Case No. 9:22-cv-80153) on January 31, 2022.
2. Plaintiff Subway Protein Litigation Corp. filed its suit in the United States District Court for the District of Connecticut (Case No. 3:22-cv-00289) on February 22, 2022.

¹ Additional Plaintiffs include Action Meat Distributors, Inc.; Affiliated Foods, Inc.; Alex Lee, Inc.; Associated Food Stores, Inc.; Big Y Foods, Inc.; Brookshire Brothers, Inc.; Brookshire Grocery Company; Colorado Boxed Beef Co.; Prefco Distribution, LLC; The Golub Corporation; Nicholas & Co., Inc.; PFD Enterprises, Inc.; Springfield Grocer Company; The Distribution Group, Inc.; Topco Associates, LLC; Troyer Foods, Inc.; Unipro FoodService, Inc.; and URM Stores, Inc. (collectively, the “Associated Grocers Plaintiffs”).

3. Plaintiff Amory Investments LLC filed its suit in the United States District Court for the Northern District of New York (Case No. 3:22-cv-00222) on March 8, 2022.

4. The Associated Grocers Plaintiffs filed their suit in the United States District Court for the Northern District of Illinois (Case No. 1:22-cv-02525) on May 12, 2022.

5. Plaintiff Giant Eagle, Inc. filed its suit in the United States District Court for the Northern District of Illinois (Case No. 1:22-cv-02992) on June 8, 2022.

6. Plaintiff Sysco Corporation filed its suit in the United States District Court for the Southern District of Texas, Houston Division (Case No. 4:22-cv-02049) on June 24, 2022.

7. In addition to these six actions (the “Transferred Cases”), Defendants are also parties to a consolidated/coordinated action pending in the United States District Court for the District of Minnesota, captioned *In re: Cattle and Beef Antitrust Litigation*, Case No. 0:20-cv-01319. The Stipulation only applies to the Parties in these six Transferred Cases.

8. Pursuant to 28 U.S.C. § 1407, the Judicial Panel on Multidistrict Litigation determined that the Transferred Cases involved common questions of fact with the consolidated action in the District of Minnesota and that centralization of the cases in the District of Minnesota would promote efficiency. See MDL Case No. 0:22-md-03031, ECF 1 (Certified Copy of Transfer Order); ECF 5, 7, 9 (Conditional Transfer Orders).

9. The Transferred Cases have now been transferred to this Court.

10. In a June 17, 2022, case management conference in *In re: Cattle and Beef Antitrust Litigation*, this Court has indicated that a consolidation order addressing the Transferred Cases is forthcoming. Plaintiffs will soon be submitting to the Court their

views about a case management order for their cases recently transferred to the Court. Plaintiffs and Defendants will meet and confer with the goal of submitting a joint report to the Court setting forth their respective views regarding the need for a modified case management order for the Transferred Cases.

11. Presently, Defendants have varying dates to respond to the Complaints. To the extent not already stipulated between the Parties, by entry of this Stipulation, Defendants, other than JBS S.A. discussed further below, agree to accept service of the Complaints in the Transferred Actions and the Complaints are each deemed served on each Defendant.

12. Good cause exists to provide Defendants additional time to answer Plaintiffs' Complaints. The Parties have acted with diligence with respect to this matter, and neither Party will be prejudiced by the requested extension.

13. Defendant JBS S.A., has neither been served nor waived service in the Transferred Cases. Accordingly, Plaintiffs and JBS S.A. separately stipulate and agree as follows:

- (a) Plaintiffs and JBS S.A. have agreed that JBS S.A. is subject to this Court's prior order [Doc. No. 238] allowing alternative service on JBS S.A. in *In re Cattle Antitrust Litigation*, Case No. 20-cv-1319 (JRT) and other consolidated and coordinated actions;
- (b) JBS S.A. does not want to burden the Court by relitigating issues addressed by the Court's order allowing alternative service on JBS S.A.;
- (c) JBS S.A. wishes to preserve its rights to appeal, at a later stage of the litigation, the order allowing alternative service on JBS S.A.;

- (d) Given that Plaintiffs' Complaints were previously served on counsel for JBS S.A. via e-mail, JBS S.A. stipulates and agrees that Plaintiffs' Complaints are deemed served by e-mail pursuant to this Court's prior order allowing alternative service on JBS S.A. [Doc. No. 238];
- (e) Plaintiffs agree that the Court's prior order [Doc. No. 238] allowing alternative service on JBS S.A. applies in their cases and that, Plaintiffs shall not argue that by entering into this Stipulation, JBS S.A. has waived or failed to preserve any rights it may have to appeal that order.

14. Accordingly, in the interests of efficient management of this litigation, the Parties jointly request that the Court order the following: On or before August 8, 2022, Plaintiffs shall designate one of the complaints in the Transferred Cases which Defendants must answer; Defendants shall each file an answer to that designated complaint on or before September 1, 2022 without prejudice to Plaintiffs' position that answers should be filed in response to all remaining Complaints. The Parties shall continue to meet and confer pertaining to the deadlines for filing Defendants' answers to the remaining Complaints, subject to the Court's guidance.

Dated: August 4, 2022

Respectfully Submitted,

/s/ Benjamin L. Ellison

Benjamin L. Ellison (#0392777)

Chelsea A. Bunge-Bollman (#0401297)

JONES DAY

90 South Seventh Street, Suite 4950

Minneapolis, MN 55402

612-217-8800

bellison@jonesday.com

cbungebollman@jonesday.com

Julie McEvoy (pro hac vice)

JONES DAY

51 Louisiana Avenue NW

Washington, DC 20001

202-879-3867

jmccevoy@jonesday.com

Michelle Fischer (pro hac vice)

JONES DAY

901 Lakeside Avenue

North Point

Cleveland, OH 44114

216-586-3939

mfischer@jonesday.com

Tiffany Lipscomb-Jackson (pro hac vice)

JONES DAY

325 John H. McConnell Blvd., Suite 600

Columbus, OH 43215

614-281-3939

tdlipscombjackson@jonesday.com

Eddie Hasdoo (pro hac vice)

JONES DAY

77 W. Wacker Dr., Suite 3500

Chicago, IL 60601

312-269-4214

ehasdoo@jonesday.com

*Counsel for Defendant National Beef Packing
Company, LLC*

/s/ David P. Graham

David P. Graham, Reg. No. 0185462

DYKEMA GOSSETT, PLLC

4000 Wells Fargo Center 90 South 7th Street
Minneapolis, MN 55402

Tel: (612) 486-1521

dgraham@dykema.com

Jon B. Jacobs (pro hac vice)

PERKINS COIE LLP

700 13th Street, NW, Suite 800
Washington, DC 20005

Tel: (202) 654-1758

jbjacobs@perkinscoie.com

Barry G. Stratford (pro hac vice)

PERKINS COIE LLP

2901 N. Central Avenue, Suite 2000
Phoenix, AZ 85012
Tel: (602) 351-8206
bstratford@perkinscoie.com

Susan E. Foster (pro hac vice)

Ulrike B. Connelly (pro hac vice)

Tiffany L. Lee (pro hac vice)

Hannah Parman (pro hac vice)

Caroline Gizem Tunca (pro hac vice)

PERKINS COIE LLP

1201 Third Avenue, Suite 4900
Seattle, WA 98101

Tel: (206) 359-8846

sfoster@perkinscoie.com

uconnelly@perkinscoie.com

TLee@perkinscoie.com

HParman@perkinscoie.com

CTunca@Perkinscoie.com

***Counsel for Defendants Tyson Foods, Inc. and
Tyson Fresh Meats, Inc.***

/s/ X. Kevin Zhao

X. Kevin Zhao, Reg. No. 0391302
Holley C. M. Horrell, Reg. No. 0399636
Davida S. McGhee, Reg. No. 0400175

GREENE ESPEL PLLP

222 S. Ninth Street, Suite 2200
Minneapolis, MN 55402
(612) 373-0830
kzhao@greenespel.com
hhorrell@greenespel.com
dwilliams@greenespel.com

Britt M. Miller (pro hac vice)
Matthew Provance (pro hac vice)

MAYER BROWN LLP

71 South Wacker Drive
Chicago, IL 60606
(312) 782-0600
bmiller@mayerbrown.com
mprovance@mayerbrown.com

William H. Stallings (pro hac vice)

MAYER BROWN LLP

1999 K Street, NW
Washington, DC 20006-1101
(202) 263-3338
wstallings@mayerbrown.com

*Counsel for Defendants Cargill, Incorporated
and Cargill Meat Solutions Corporation*

/s/ Donald G. Heeman

Donald G. Heeman (#286023)

Jessica J. Nelson (#347358)

Randi J. Winter (#391354)

SPENCER FANE LLP

100 South Fifth Street, Suite 2500

Minneapolis, MN 55402

Telephone: (612) 268-7000

dheeman@spencerfane.com

jnelson@spencerfane.com

rwinter@spencerfane.com

Stephen R. Neuwirth (pro hac vice)

Michael B. Carlinsky (pro hac vice)

Sami H. Rashid (pro hac vice)

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

51 Madison Avenue, 22nd Floor

New York, NY 10010

Telephone: (212) 849-7000

stephenneuwirth@quinnmanuel.com

michaelcarlinsky@quinnmanuel.com

samirashid@quinnmanuel.com

*Counsel for JBS USA Food Company, JBS
Packerland, Inc., Swift Beef Company, and
JBS S.A.*

/s/ Scott E. Gant

Scott E. Gant
Michael S. Mitchell
Sarah L. Jones
BOIES SCHILLER FLEXNER LLP
1401 New York Ave., NW
Washington, DC 20005
Tel: 202-237-2727
Fax: 202-237-6131
sgant@bsfllp.com
mmitchell@bsfllp.com
sjones@bsfllp.com

Ryan T. McAllister
BOIES SCHILLER FLEXNER LLP
30 South Pearl Street
11th Floor
Albany, NY 12207
Tel: 518-694-4271
rmcallister@bsfllp.com

Colleen Harrison
BOIES SCHILLER FLEXNER LLP
333 Main Street
Armonk, NY 10504
Tel: 914-749-8204
Fax: 914-749-8300
charrison@bsfllp.com

*Counsel for Plaintiffs Sysco Corporation and
Amory Investments LLC*

/s/ Eric R. Lifvendahl

Eric R. Lifvendahl
L&G LAW GROUP
175 W. Jackson Blvd., Suite 950
Chicago, Illinois 60604
Telephone: (312) 364-2500
Email: elifvendahl@lgcounsel.com

THE COFFMAN LAW FIRM

Richard L. Coffman
3355 W. Alabama, Suite 240
Houston, Texas 77098
Telephone: (713) 528-6700
Email: rcoffman@coffmanlawfirm.com

KAPLAN FOX & KILSHEIMER, LLP

Robert N. Kaplan
Elana Katcher
Matthew P. McCahill
Jason A. Uris
850 Third Avenue, 14th Floor
New York, New York 10022
Telephone: (212) 687-1980
Email: rkaplan@kaplanfox.com
Email: mmccahill@kaplanfox.com
Email: juris@kaplanfox.com

*Counsel for Associated Grocers Plaintiffs and
Plaintiff Giant Eagle, Inc.*

/s/ Bernard D. Marcus

MARCUS & SHAPIRA LLP

Bernard D. Marcus

Moira Cain-Mannix

Brian C. Hill

301 Grant Street

One Oxford Centre, 35th Floor

Pittsburgh, PA 15219-6401

Telephone: 412-471-3490

Facsimile: 412-391-8758

E-mail: marcus@marcus-shapira.com

E-mail: cain-mannix@marcus-shapira.com

E-mail: hill@marcus-shapira.com

Counsel for Plaintiff Giant Eagle, Inc.

/s/ Garth T. Yearick

CARLTON FIELDS, P.A.

Garth T. Yearick (Florida Bar No. 96105)
David B. Esau (Florida Bar No. 650331)
Email: desau@carltonfields.com
Kristin A. Gore (Florida Bar No. 59090)
Email: kgore@carltonfields.com
Email: gyearick@carltonfields.com
525 Okeechobee Boulevard, Suite 1200
West Palm Beach, Florida 33401
Tel: (561) 659-7070
Fax: (561) 659-7368

Roger S. Kober (Florida Bar No. 765295)
Email: rkober@carltonfields.com
405 Lexington Avenue, 36th Floor
New York, New York 10174
Tel: (212) 785-2577
Fax: (212) 785-5203

Aaron A. Holman (Florida Bar No. 1010729)
Email: aholman@carltonfields.com
200 S. Orange Avenue, Suite 1000
Orlando, Florida 32801
Tel: (407) 849-0300
Fax: (407) 648-9099

***Counsel for Plaintiffs Cheney Brothers, Inc.
and Subway Protein Litigation Corp., as
litigation trustee of the Subway Protein
Litigation Trust***